THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.21470 of 2004 and 4697 of 2005

18.10.2005

Between:

Vadapalli Satyanarayana Raju, Gajuwaka and others

… Petitioners

AND

The District Collector, Visakhapatnam and others

… Respondents

COMMON ORDER:

The petitioners in these writ petitions are same and the dispute is in relation to the land comprises in Survey No.212/2 of Lakshmipuram H/o.Kanithi village in Gajuwaka Mandal of Visakhapatnam District admeasuring Acs.12.52. Therefore, it is expedient to dispose of the writ petitions by a common order.

The petitioners or their predecessors have been allegedly in possession of the agricultural land in Survey No.212/2 admeasuring Acs.12.52 in the above named village (hereafter called, subject land) for more than eight decades. They filed the first writ petition being W.P. No.21470 of 2004 seeking a direction to the respondents (namely, the District Collector, Visakhapatnam, the Revenue Divisional Officer, Visakhapatnam, the Mandal Revenue Officer, Gajuwaka and the Municipal Commissioner, Gajuwaka Municipality) to take a decision for alienation of the subject land in favour of the petitioners in accordance with the resolution passed by Gajuwaka Municipality on 11.11.2004. In the affidavit accompanying the said writ petition, they allege that they approached the Governmental authorities for alienation, in vain. They then filed W.P.No.22644 of 2003, which was disposed of by this Court directing the Mandal Revenue Officer, Gajuwaka (MRO) to complete the enquiry, which was pending before him. After conducting enquiry, by proceedings dated 22.12.2003, the MRO held that the subject land belongs to Government and that the petitioners have no right over the property. The petitioners further allege that when they approached the District Collector for alienation, the MRO was directed to submit proposals with the market value but the MRO referred the matter to Municipality, which passed resolution on 09.11.2004 giving their consent for alienation. In spite of the same, the land was not alienated. Hence, the writ petition.

When the W.P.No.21470 of 2004 was pending, the petitioners again filed W.P.No.4697 of 2005 assailing the proceedings of the MRO dated 22.12.2003. In the second writ petition, they prayed for a declaration that the action of the respondents in uprooting the fruit bearing trees on the land without due process of law and without compensation is illegal and arbitrary. In this writ petition, it is alleged

that on 03.03.2005 the District Collector and other officials came to the land and with the help of proclainers uprooted the trees and forcibly attempted to take possession of the land. This Court initially passed orders of *status quo*, which were later vacated. Be that as it is, it is brought to the notice of this Court that on 15.4.2005 both the writ petitions were dismissed for default and thereafter on 01.5.2005, the respondents uprooted all the trees, dispossessed the petitioners and took possession of the land.

In a common counter affidavit filed by the MRO, it is stated that the subject land is assessed Government wasteland, which was initially transferred to Visakhapatnam Steel Plant in 1979. They only utilized an extent of Acs.1.99 for railway track and reconveyed the balance land and the MRO took possession of the same in 1990. On 10.11.2003, the petitioners submitted a representation to the District Collector for assignment of the land. After this Court passed orders in W.P.Nos.13107 of 1993 and 22644 of 2003, the MRO conducted enquiry into the matter and issued proceedings on 22.12.2003 determining the subject land as Government land, on which the petitioners have no right. Again, the petitioners approached the Hon'ble Minister for Revenue seeking regularization/ alienation of the subject land after receiving market value. In that connection, Gajuwaka Municipality also passed resolution for alienation. However, on 11.11.2004 the District Collector inspected the site and opined that the land is well suited for construction of Water Treatment Plant. In the meanwhile, Government took up the project of Gangavaram Port, which resulted in dispossession of fishermen of Dibbapalem and Gangavaram villages. Therefore, it was decided to utilize vacant land admeasuring Acs.40.00 including the subject land for development of a colony for the fishermen, who were displaced by Gangavaram port. Accordingly, the work is taken up and is in progress.

As noticed hereinabove, the interim orders passed by this Court on 10.3.2005 in W.P.No.4697 of 2005 are vacated by this Court. It is also not denied before this Court that on 01.5.2005 the Revenue officials have taken possession of the land and also taken up developmental work for construction of fishermen colony. Further, though a categorical averment is made in the counter affidavit filed by the MRO denying the allegation that the petitioners are in possession for a long time, no reply affidavit is filed. As per the counter affidavit since 1979 to 29.3.1990, Visakhapatnam Steel Plant was in possession of subject land and thereafter the subject land was reconveyed to the revenue department. However, it is strenuously contended by the learned Counsel for the petitioners in both writ petitions, Sri Praveen Kumar, that the petitioners developed the land and planted trees and fruit bearing trees were uprooted by the revenue authorities without giving any notice. Therefore, the learned Counsel has vehemently pleaded for a direction to the respondents to pay compensation to the petitioners.

In the enquiry conducted by the MRO pursuant to the orders of this Court in W.P.Nos.13107 of 1993 and 22644 of 2003, petitioner No.7 in W.P. No.21470 of 2004, Vijaya Raju Seetharama Raju, and one Bellamkonda Varahalamma filed Xerox copies of land revenue receipts in proof of their possession but the other petitioners did not produce any evidence of possession except a deed canceling registered G.P.A. Therefore, the MRO verified the revenue records and found that

the total extent of land in Survey No.212/2 of Kanithi Village admeasuring Acs.25.30 was transferred to Visakhapantam Steel Plant by the District Collector vide Proceedings dated 16.2.1979, which was subsequently reconveyed to Government. The MRO after taking possession of the land from Visakhapatnam Steel Plant also issued a press statement in Eenadu on 13.10.1992. These facts lead to an inference that the petitioners have not placed any evidence before the MRO in proof of their possession. Therefore, this Court is not inclined to go into the question of compensating the petitioners for the land or trees.

As already noticed, the revenue authorities have already taken possession and are developing a fishermen colony in the land. Therefore the request of the petitioners for alienation cannot be considered at this stage. However, if the petitioners are eligible as per the Assignment rules in force, their cases for assignment of suitable available agricultural land may be considered by the concerned MRO, as and when the petitioners make a representation for assignment of land subject to availability of the land. In these writ petitions, no relief can be granted.

The writ petitions, with the above observations, are accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

October 18, 2005.

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